

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Calvin Davis, Ricardo Rolon, Carlos Reyes, Kirk Henson, David Harvey,
James Brown, Chandar Bingham, Maurice Pope

(b) County of Residence of First Listed Plaintiff Schuylkill
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Jennifer McHugh, Arnold C. Joseph, Cozen O'Connor, 1900 Market
Street, Philadelphia, Pennsylvania 19103 (215) 665-2000

DEFENDANTS

United States of America

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1346; 28 U.S.C. Section 2671; 28 U.S.C. Section 2675

Brief description of cause:

Recover for injuries caused by Defendant's failure to protect Plaintiffs from contracting infectious diseases

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** in excess of \$75,000 **CHECK YES only if demanded in complaint:** **JURY DEMAND:** ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

3/26/06

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 8/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

District of _____

Calvin Davis, Ricardo Rolon, Carlos Reyes,
Kirk Henson, David Harvey, James Brown,
Chandar Bingham, Maurice Pope

V.

UNITED STATES OF AMERICA

SUMMONS IN A CIVIL ACTION

CASE NUMBER: _____

TO: (Name and address of Defendant)

Northeast Regional Office
Federal Bureau of Prisons
2nd and Chestnut Street
Seventh Floor
Philadelphia, Pennsylvania 19106

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Jennifer M. McHugh
Arnold C. Joseph
Cozen O'Connor
1900 Market Street
Philadelphia, Pennsylvania 19103

an answer to the complaint which is served on you with this summons, within _____ days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

CLERK

DATE

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	
NAME OF SERVER (<i>PRINT</i>)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<div style="margin-bottom: 10px;"> <input type="checkbox"/> Served personally upon the defendant. Place where served: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Returned unexecuted: </div> <div> <input type="checkbox"/> Other (specify): </div>		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> Executed on _____ Date </div> <div style="width: 60%;"> _____ <i>Signature of Server</i> </div> </div> <div style="text-align: center;"> _____ <i>Address of Server</i> </div>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
(WILKES-BARRE DIVISION)**

CALVIN DAVIS,
Federal Correctional Institution
Minersville, Pennsylvania 17954

and

RICARDO ROLON,
Federal Correctional Institution
Minersville, Pennsylvania 17954

and

CARLOS REYES
Federal Correctional Institution
Minersville, Pennsylvania 17954

and

KIRK HENSON,
Federal Correctional Institution
Minersville, Pennsylvania 17954

and

DAVID HARVEY
Federal Correctional Institution
Minersville, Pennsylvania 17954

and

JAMES BROWN
State Correctional Institution
Camp Hill

Cumberland County, Pennsylvania

and

CHANDAR BINGHAM
United States Penitentiary
Pollock, Louisiana 71467

and

MAURICE POPE
1215 Meigs Place NE
Apartment 4
Washington, DC 20032

Plaintiffs,

vs.

UNITED STATES OF AMERICA,
Defendant.

Civil Action No.:

COMPLAINT

Plaintiffs, Calvin Davis, Ricardo Rolon, Carlos Reyes, Kirk Henson, David Harvey, James Brown, Chandar Bingham and Maurice Pope, by and through their counsel, hereby file this Complaint against Defendant, United States of America, as follows:

I. JURISDICTION AND VENUE

1. This action is brought pursuant to the Federal Tort Claims Act, 28 U.S.C. § 1346, 28 U.S.C. § 2671 and 28 U.S.C. § 2675 and jurisdiction is properly within this Court.

2. Pursuant to U.S.C. § 2675 (a), the claims set forth herein were presented to the Northeast Regional office of the Federal Bureau of Prisons in June 2006. The agency denied the claims in January 2007.

3. The facts and circumstances giving rise to the cause of action occurred while Plaintiffs were inmates at the Federal Correctional Institution located in Minersville, Schuylkill County, Pennsylvania, therefore venue is proper in this Court pursuant to 28 U.S.C. § 1391 (e).

II. PARTIES

4. Plaintiff Calvin Davis, is an adult individual and inmate, who currently resides at the Federal Correctional Institution, located in Minersville, Schuylkill County, Pennsylvania 17954.

5. Plaintiff Ricardo Rolon, is an adult individual and inmate, who currently resides at the Federal Correctional Institution, located in Minersville, Schuylkill County, Pennsylvania 17954.

6. Plaintiff Carlos Reyes, is an adult individual and inmate, who currently resides at the Federal Correctional Institution, located in Minersville, Schuylkill County, Pennsylvania 17954.

7. Plaintiff Kirk Henson, is an adult individual and inmate, who currently resides at the Federal Correctional Institution, located in Minersville, Schuylkill County, Pennsylvania 17954.

8. Plaintiff David Harvey, is an adult individual and inmate, who currently resides at the Federal Correctional Institution, located in Minersville, Schuylkill County, Pennsylvania 17954.

9. Plaintiff James Brown, is an adult individual and former inmate of the Federal Correctional Institution, located in Minersville, Schuylkill County, Pennsylvania, who is currently an inmate at the State Correctional Institution, located in Camp Hill, Cumberland County, Pennsylvania.

10. Plaintiff Chandar Bingham, is an adult individual and former inmate of the Federal Correctional Institution, located in Minersville, Schuylkill County, Pennsylvania, who is currently an inmate at the United States Penitentiary, located in Pollock, Pollock County, Louisiana 71467.

11. Plaintiff Maurice Pope, is an adult individual and former inmate of the Federal Correctional Institution, located in Minersville, Schuylkill County, Pennsylvania, who currently resides 1215 Meigs Place NE, Apt 4, Washington, D.C. 20032.

12. The defendant herein is the United States of America and at all relevant times, was the party responsible for the management, supervision, and operation of the Federal Correctional Institution (“FCI Schuylkill”), located in Minersville, Schuylkill County, Pennsylvania, including the operation of all medical facilities and services provided therein.).

13. Service may be perfected pursuant to Rule 4(i)(1) of the Federal Rules of Civil Procedure.

III. FACTUAL BACKGROUND

14. The basis for this action is the Defendant’s failure to provide adequate medical care to inmates under its supervision and control at FCI Schuylkill.

15. In particular, at all times relevant hereto, and upon information and belief, the defendant maintained an official but unwritten policy and practice of:

- a) Not providing medical isolation facilities for inmates;
- b) Not providing adequate screening procedures for new inmates prior to admitting them to their cells;
- c) Not providing medical care to inmates unless death appeared imminent;
- d) Not providing and/or refusing to provide medical testing without a Court Order;
- e) Refusing to acknowledge and/or denying the existence of infectious diseases at FCI Schuylkill;
- f) Failing and/or refusing to provide basic sanitation for inmates; and
- g) Failing to disclose and concealing the outbreak of infectious diseases at FCI Schuylkill.

16. Between 2005 and 2006, Plaintiffs, all male inmates at FCI Schuylkill, became infected with Methicillin-resistant *Staphylococcus aureus* (“MRSA”), a specific strain of the

Staphylococcus aureus bacterium that has developed antibiotic resistance to all penicillins, including methicillin and other narrow-spectrum β -lactamase-resistant penicillin antibiotics.

17. Because MRSA is drug resistant, it is difficult to treat.

18. Further, inmates are subject to repeated infections because MSRA is present on virtually all surfaces in the prison and infection is spread by repeated contact. Depending on the location and severity of the infection, and the condition of the victim's immune system, MRSA can be fatal.

19. Plaintiffs contracted MSRA because each Plaintiff was housed in a cell with or placed within close proximity to individuals who were infected with MRSA. After coming into contact with infected inmates, Plaintiffs developed painful boils and lesions which spread throughout their bodies affecting their skin and internal organs.

20. However, at no time were Plaintiffs warned that there was an outbreak of MRSA in the prison, that they should take precautions not to have contact with infected inmates, and that they should not touch their own infections.

21. After each Plaintiff observed their scars, abscesses, lesions and festering wounds and experienced great pain, they sought help from the prison staff and medical staff.

22. Plaintiffs were each denied access to medical treatment, staff and personnel, despite their obvious and painful abscesses, scars, lesions and festering wounds in accordance with the above referenced unwritten policy. Instead, Plaintiffs were forced to care for themselves.

23. Moreover, and also in accordance with the unwritten policy above, and despite the infectious nature of their illness, the Plaintiffs were not quarantined or kept segregated from the remainder of the prison and staff.

24. When finally afforded treatment, Plaintiffs were initially told that the sores were “spider bites, “bedsores”, “pimples”, and “allergies” and that they should treat themselves by rubbing their wounds with warm wash cloths.

25. The treatment which was initially provided to Plaintiffs was inadequate.

26. Because their wounds were neither diagnosed nor treated in a timely or proper manner, the MRSA infections spread throughout their bodies and Plaintiffs now suffer from permanent scars, continuing pain and permanent impairment of bodily functions.

27. The Defendant was aware of the outbreak of MRSA at FCI Schuylkill yet failed to disclose to Plaintiffs or other inmates that there was a MSRA outbreak at the institution.

28. Furthermore, despite the MRSA Containment guidelines set forth in the Federal Bureau of Prisons Practice Guidelines, which recommends and in some instances requires single cell housing for those infected with MRSA, Defendant did not follow its own recommendations and its failure to abide by its own guidelines caused Plaintiffs to become infected with MSRA.

COUNT I

PLAINTIFFS' NEGLIGENCE AND GROSS NEGLIGENCE CLAIMS AGAINST DEFENDANT

29. The allegations of paragraphs 1-28 above are incorporated herein though fully set forth at length.

30. Defendant was under a duty and had undertaken to provide supervision to FCI Schuylkill and was under a duty to provide a safe place for the Plaintiffs and to exercise care in protecting the safety and well-being of Plaintiffs.

31. The Defendant through its agents, servants or employees negligently supervised FCI Schuylkill and its staff.

32. Defendant failed and neglected to

- a) provide independent supervision and oversight of FCI Schuylkill, the warden, the inmate living conditions and the medical staff and facilities;
- b) adhere to Federal guidelines set up for testing, diagnosis, isolation and treatment of inmates with MRSA;
- c) acknowledge that the inmate population, plaintiffs in particular, had compromised immune systems, and were especially susceptible to infections living in a closed damp, dirty prison lacking ventilation and with disease-laden showers;
- d) warn inmates of the risk of contracting MRSA from inmates which the defendant knew or had reason to know had MRSA;
- e) provide medical care to inmates unless imminent death was apparent; and
- f) test for serious infections unless ordered by a court; and refusal to re-test inmates who were treated for MRSA

33. Defendant was indifferent to and maliciously and/or willfully failed to warn Plaintiffs of the risks of contracting MRSA

34. Defendant failed to segregate plaintiffs from inmates who had contracted MRSA and to diagnose and properly treat Plaintiffs once they contracted MRSA

35. Defendants showed a reckless disregard for the safety and well-being of Plaintiffs.

36. As a direct and proximate result of Defendant's negligence and gross negligence as aforesaid, and the hazardous conditions created thereby, Plaintiffs were caused and permitted to suffer extreme pain and permanent injury.

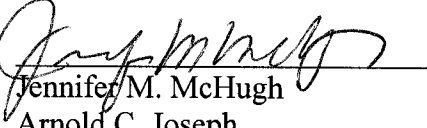
37. The Defendant breached its express and/or implied contracts with Plaintiffs to protect them after the Plaintiffs were sentenced and housed in FCI Schuylkill.

38. At all times relevant, the Warden of FCI Schuylkill was Ronnie R. Holt who along with various others Jane and John Does, was negligent, reckless, careless, failed to exercise due care in general, and showed a reckless disregard for Plaintiffs' safety, failed to protect Plaintiffs, failed to treat plaintiffs' injuries and violated prison policy and procedures, and otherwise failed to act appropriately under the circumstances.

WHEREFORE, Plaintiffs demand judgment for damages in an amount in excess of \$75,000.00 together with interest, costs associated with this action, and such other and further relief as the Court may deem necessary and proper.

Respectfully submitted,

BY:


Jennifer M. McHugh
Arnold C. Joseph
Cozen O'Connor
1900 Market Street
Philadelphia Pennsylvania 19103
Telephone: (215) 665-5506
Facsimile: (877) 260-6237

Dated: 3/15/07

VERIFICATION

I Maurice Pope am a Plaintiff in this action. I verify that the statements made in the foregoing Complaint, which relate to me, are true and correct to the best of my knowledge, information and belief; and I understand that such statements are subject to the penalties of perjury.

Maurice Pope 3/20/2007
Maurice Pope